

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
:
v. : 15-CR-252 (RJD)
:
JUAN ANGEL NAPOUT, : December 15, 2015
:
:
Defendant. : Brooklyn, New York
:
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TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
BEFORE THE HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: KELLY T. CURRIE, ESQ.
UNITED STATES ATTORNEY
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1 THE CLERK: Criminal cause for arraignment,
2 case number 15-CR-252, United States v. Juan Angel
3 Napout.

4 Counsel, your names for the record.

5 MS. MACE: Good afternoon, your Honor.
6 Kristin Mace, Evan Norris and Tanya Hajjar for the
7 United States.

8 THE COURT: Good afternoon.

9 MR. PAPPALARDO: Good afternoon, your Honor.
10 My name is John Pappalardo on behalf of Mr. Napout.
11 With me is Estoban Britt (ph), who is Paraguayan
12 counsel.

13 THE COURT: Good afternoon.

14 MR. PAPPALARDO: If I may, your Honor, Mr.
15 Napout is very fluent in English. He speaks five
16 languages and I'm not sure that an interpreter is
17 needed unless the Court desires.

18 THE DEFENDANT: Whatever you decide, your
19 Honor. I do speak English.

20 THE COURT: If it's less confusing to you to
21 have just one language spoken --

22 THE DEFENDANT: If there's a word or
23 something that I don't understand, I'll talk to the
24 translator, but I think I can handle it.

25 THE COURT: Okay, perfect.

1 THE DEFENDANT: If you agree.

2 THE COURT: I agree, of course.

3 THE DEFENDANT: Okay.

4 THE COURT: Thank you. Just in case, we do
5 have a Spanish interpreter ready and waiting.

6 MR. PAPPALARDO: Your Honor, one other
7 housekeeping matter is that I filed a motion with the
8 Court under your statute for pro hoc vice. Everything
9 has been completed except the signature of the Court.
10 The paperwork is before the Court, although I have
11 extra copies here including the order.

12 THE COURT: Okay. Happy to sign it now.
13 Any objection?

14 MS. MACE: No, your Honor.

15 THE COURT: Looks good. So ordered.

16 MR. PAPPALARDO: Thank you, your Honor.

17 THE COURT: Mr. Napout, you're here so I can
18 be sure you understand your rights, the charges against
19 you, make sure you have an attorney.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And make a decision on bail. I
22 see that there has been an agreed upon bond in this
23 case but first, let me advise you, you have a right to
24 remain silent.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Whatever you say here today
2 could be used against you. You have your attorney
3 standing next to you, so you can consult with him
4 before you say anything.

5 Do you understand?

6 THE DEFENDANT: Yes, sir, I do understand
7 perfectly and that's why the attorney is here with me.

8 THE COURT: The superseding indictment names
9 a number of people including you in the charges. It's
10 a fairly thick document.

11 Have you had a chance to meet with your
12 lawyer and has he explained to you what the charge is
13 against you?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You understand what the charge
16 is.

17 THE DEFENDANT: I had the chance and I
18 understand.

19 THE COURT: Okay.

20 MR. PAPPALARDO: And we waive the formal
21 reading, your Honor.

22 THE COURT: How does he plead?

23 MR. PAPPALARDO: He pleads not guilty.

24 MS. MACE: Your Honor, for the record, I
25 might just note the counts that he's charged in -- it's

1 a 91-count indictment and Mr. Napout is charged in five
2 counts; Count 1, the racketeering conspiracy; Counts 9
3 and 10 are wire fraud and money laundering conspiracies
4 relating to the rights to the Copa Libra Tedores (ph)
5 Tournament; and Counts 83 and 84 are wire fraud
6 conspiracy and money laundering conspiracy relating to
7 the rights to the Copa America Centenario (ph)
8 Tournament, just to make that clear for the record.

9 THE COURT: Okay.

10 You understand a conspiracy is an agreement
11 between two or more people to do something illegal.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Any questions at all about the
14 charges?

15 THE DEFENDANT: No, sir.

16 THE COURT: We have a proposed bond here.
17 I'd be happy to read the conditions. Are any of the
18 suretors here today?

19 MR. PAPPALARDO: Two are, your Honor. May I
20 approach the bench, your Honor?

21 THE COURT: Sure.

22 (Side bar, off the record.)

23 THE COURT: We're at the point where we're
24 talking about the bond. It is a somewhat complicated
25 bond and I'm going to ask the parties to put the

1 conditions on the record.

2 MS. MACE: Yes, thank you, your Honor. What
3 the parties are jointly proposing to the Court is a
4 twenty-million-dollar appearance bond that would be
5 fully secured. It would be secured by ten million
6 dollars in cash to be deposited with the clerk of the
7 Court by tomorrow, a letter of credit issued by a
8 reputable bank in the United States that is acceptable
9 to the government in the sum of seven million dollars
10 in favor of the United States. This is to be posted
11 with the Court by Friday, December 18th.

12 Real property would also be offered to
13 secure the bond that has an estimated market value
14 based on representations of defense counsel of
15 approximately three million dollars, to be posted with
16 the Court by Friday, December 18th. So that's the --

17 THE COURT: The financial aspect.

18 MS. MACE: -- the financial aspect that
19 represents how the bond will be fully secured. In
20 addition, there are additional conditions that will
21 appear in attachment A to the proposed bond.

22 First, the defendant must remain in and may
23 not leave the Eastern District of New York, the
24 Southern District of New York and the Southern District
25 of Florida. The defendant will not directly or

1 indirectly associate or have contact with his
2 codefendants or any individual employed by or
3 associated with the following entities:

4 Number one, any sports marketing company
5 identified in the indictment in this case, including
6 without limitation Tranaos y Compentencia S.A. (Ph),
7 Fullplay S.A. and the Traffic Group or any subsidiary
8 or affiliates of the foregoing companies. Number two:
9 Concacaf (ph) and any affiliated or constituent
10 entities; Commaball (ph) and any affiliated or
11 constituent entity; and FIFA and any affiliated or
12 constituent entity.

13 The defendant also must surrender any and
14 all passports to the FBI. We're aware of four
15 passports that he was traveling with, all Paraguayan,
16 and those are in the possession of the FBI now. We've
17 also learned from counsel that there's an Italian
18 passport, so that should be provided as well and any
19 other passports that he may have. Also, the defendant
20 must not apply for any new passport.

21 We'd ask -- we have the four Paraguayan
22 passports now. We'd ask that the Italian passport be
23 surrendered today. If there's a reason that that's not
24 possible, we can hear from defense counsel, but as soon
25 as possible certainly, and maybe we can discuss this

1 point now.

2 MR. PAPPALARDO: Happy to. First of all,
3 your Honor, let me correct paragraph 4. There's really
4 one Paraguayan passport, not four. The four are
5 together because there are various visas and things
6 like that, like Mr. Britt's passport has two together,
7 but it's really one passport, not four. That is in the
8 possession of the FBI. I believe it's in the
9 possession of the case agent.

10 Number two, with respect to the Italian
11 passport, Mr. Napout did not travel with that passport.
12 We are making arrangements to get that passport back.
13 I believe it will be in Miami this week. I represent
14 to the Court that we will send it forthwith to the FBI,
15 the Pretrial Services, the government, whomever they
16 designate, as soon as we get it from out of Miami.

17 MS. MACE: I would ask that a date be set
18 for that, and perhaps the passport can be sent directly
19 to New York or Boston rather than stopping in Miami.

20 MR. PAPPALARDO: That would be great, except
21 that it's coming up on somebody's person. I believe it
22 will be here Thursday and we're happy to turn it
23 around. We'll surrender it to the FBI in Miami, if
24 that's okay.

25 THE COURT: Is that easier for you?

1 MS. MACE: I believe we can arrange that.
2 We'd ask that that be done by Friday.

3 THE COURT: December 18th?

4 MS. MACE: December 18th.

5 MR. PAPPALARDO: I believe that's doable and
6 I'll keep you informed of that.

7 MS. MACE: Okay.

8 THE COURT: Okay.

9 MS. MACE: Continuing with the other
10 conditions. The defendant is subject to electronic
11 monitoring and home detention at a residence approved
12 by the FBI and the office of Pretrial Services. The
13 defendant may leave his residence only upon approval in
14 writing by the FBI and Pretrial Services and under
15 terms and conditions approved in writing by the FBI and
16 Pretrial Services, except that the defendant may leave
17 his residence without prior approval for medical
18 emergencies.

19 The defendant may leave his residence for
20 attorney visits, court dates, religious services,
21 ninety minutes of daily exercise and shopping for food
22 and other necessities, with notice to the FBI and
23 Pretrial Services. Both police officers and the FBI
24 shall receive any electronic monitoring alerts. The
25 cost of the electronic monitoring shall be borne solely

1 by the defendant.

2 Finally, a private security service approved
3 by the U.S. Attorney's office and the FBI will monitor
4 the defendant's physical location and provide security
5 24 hours per day, seven days per week. The private
6 security service shall accompany the defendant during
7 all transit to and from his residence. The defendant
8 may have private meetings with his counsel of record in
9 this case with the security service in sufficiently
10 close proximity to perform its duties.

11 The defendant is subject to video
12 surveillance 24 hours a day, seven days a week, at the
13 doors of his residence and other points of entrance.
14 The cost of the private security service and the video
15 surveillance shall be borne solely by the defendant.
16 Those are the conditions of the proposed bond.

17 In addition, we anticipate that there would
18 be two sureties who would cosign the bond, and they're
19 being offered, it's my understanding, for moral
20 suasion.

21 THE COURT: Does that sound like what the
22 agreement is?

23 MR. PAPPALARDO: Yes, your Honor. The
24 representation by the government is complete and
25 accurate in all respects. I would note that paragraph

1 4 does not say that he will not apply for a passport
2 but I represent to the Court that he will not. Other
3 than that, it's complete and accurate and we agree with
4 the terms that have been negotiated with the
5 government.

6 THE COURT: Okay. On the actual bond, it
7 says that he will not apply.

8 MR. PAPPALARDO: Yes, understood. I just
9 pointed it out on the attachment.

10 THE COURT: I appreciate that.

11 MS. MACE: I will note on the bond that
12 we've provided to the Court, it says that the passports
13 will be turned over by today, so we would agree to
14 change that to December 18th on the bond itself that
15 appears.

16 THE COURT: Right. I've done that.

17 MS. MACE: Thank you, your Honor.

18 THE COURT: Before we get the suretors, let
19 me just go through the conditions.

20 Do you understand all the conditions of the
21 bond?

22 THE DEFENDANT: Yes, your Honor, I do
23 understand.

24 THE COURT: Because you're the one who is
25 primarily responsible under this bond. You're making a

1 financial commitment but you're also making a
2 commitment that has -- of your liberty. Your freedom
3 depends on your following every condition of this bond.
4 I want to be sure that you understand everything.

5 THE DEFENDANT: Yes, your Honor, I
6 understand.

7 THE COURT: Okay.

8 THE DEFENDANT: Yes, I understand perfectly.

9 THE COURT: Okay, good. There are other
10 conditions on the back of the bond which I'm sure you
11 and your lawyer can go there. There are some other
12 conditions on the back of the bond. They're standard
13 conditions.

14 MR. PAPPALARDO: Yes, your Honor.

15 THE COURT: You cannot commit a crime while
16 you're on release. If you do not come back to court
17 when you're supposed to, you could be arrested for bail
18 jumping; that's another crime, things that I think
19 you'll see from common sense.

20 Anyone who signs this bond is liable for the
21 full amount of the bond but of course, this bond is
22 being secured by your finances. So I want to be sure
23 that you fully understand that if you violate any
24 condition of the bond, the government could come back
25 to court and ask that anyone who signed the bond, but

1 particularly you, be liable for the twenty million
2 dollars and immediately secure all the money or
3 property that has been posted with the Court.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: If for some reason, the security
7 did not cover the entire amount of the bond, then you
8 would owe the rest.

9 Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Is there anything I've missed
12 from the government's perspective?

13 MS. MACE: I don't believe so, your Honor.

14 THE COURT: From the defense's perspective?

15 MR. PAPPALARDO: Not at all, your Honor,
16 thank you.

17 THE COURT: So I'm going to hand this down
18 for you to sign and I'd ask you to have the suretors
19 come up as well so I can --

20 (Suretors are sworn.)

21 MS. MACE: Your Honor, just at the
22 beginning, it might make sense to confirm that they do
23 speak English.

24 THE COURT: Of course.

25 MS. MACE: Thank you.

1 THE COURT: We do have an interpreter here.
2 I don't know if there's any need for an interpreter.

3 UNIDENTIFIED SPEAKER: No, it's not
4 necessary, thank you.

5 THE COURT: We've already gone through all
6 the terms and conditions of the bond. It's a twenty-
7 million-dollar bond. As has already been mentioned,
8 the bond is already secured by enough money to take
9 care of the twenty million. The only reason you're
10 here in addition to whatever else has been dealt with
11 is because you're family and it is thought that because
12 you're family members, you will have moral suasion, as
13 we call it, in other words that he will have more of an
14 incentive to follow the conditions of the bond knowing
15 that you've signed it. We're not looking for any
16 additional at this point to what's on the attachments
17 already on the bond.

18 I do have to tell you that in the event
19 whatever has been deposited with the Court is not
20 satisfactory, you are jointly and severally liable on
21 the bond. But as I said, the agreement with the
22 government and the defendant is that the money that
23 secures the bond -- that there's the full amount of
24 money to secure the bond already on that bond.

25 Do you have any questions about the bond?

1 UNIDENTIFIED SPEAKER: No.

2 THE COURT: Have you discussed it fully with
3 Mr. Pappalardo?

4 UNIDENTIFIED SPEAKER: Yes.

5 THE COURT: Did he explain -- did he answer
6 all your questions?

7 UNIDENTIFIED SPEAKER: Yes.

8 THE COURT: Do you have any other questions
9 you would like to ask him at this time?

10 UNIDENTIFIED SPEAKER: No.

11 THE COURT: Are you signed the bond because
12 you wish to?

13 UNIDENTIFIED SPEAKERS: Yes.

14 THE COURT: The bond is there for you to
15 sign.

16 MS. MACE: Your Honor, just for clarify of
17 the record, before the sureties were sworn, I don't
18 believe they put their name on the record. So in terms
19 of having a valid indication, I think it needs to be
20 clear that each individual in their own name has been
21 sworn by the Court.

22 THE COURT: Yes.

23 I note for the record that the defendant and
24 both suretors have signed this bond and for the record
25 that both of the suretors were sworn before they

1 answered my questions.

2 Is everything that you told me today true?

3 UNIDENTIFIED SPEAKER #1: Yes.

4 UNIDENTIFIED SPEAKER #2: Yes.

5 THE COURT: Thank you.

6 MS. MACE: Your Honor, I do believe that for
7 the record to be clear, they need to state their name
8 so that it's clear who was sworn today before the
9 Court.

10 THE COURT: I don't know if they stated
11 their names.

12 THE CLERK: Could I have your name for the
13 record?

14 MS. PENAPUT: Yes, my name is Ruth Karen
15 Ferster Napout (ph).

16 THE CLERK: Thank you.

17 MS. FERSTER: My name is Veronica Napout
18 Ferster (ph).

19 THE CLERK: Thank you.

20 THE COURT: Okay.

21 MS. MACE: Thank you, your Honor.

22 THE COURT: Anything else?

23 MS. MACE: Just with regard to the next
24 status conference. This is a case that's been assigned
25 to Judge Dearie and Judge Dearie's -- the government

1 was in contact with his chambers and Judge Dearie set a
2 next status conference for March 16th, 2016 at 12:00
3 p.m. and indicated that it's okay for the parties or
4 for the government to ask to exclude time until that
5 date.

6 I don't know that we have agreement on this
7 so I wanted to articulate for the record the reasons
8 the government is asking that the time be excluded all
9 the way to March 16th, 2016. Judge Dearie has set that
10 date as the next status conference for this defendant.
11 Judge Dearie did previously designate this a complex
12 case under 18 USC 3161(h)(7)(A).

13 In addition, because other defendants are
14 still pending extradition to the United States and thus
15 have not been arraigned on the indictment, time is
16 automatically excluded under the Speedy Trial Act under
17 18 USC Section 3161(h)(6). For that reason, we ask
18 that time be excluded in the interests of justice to
19 March 16th.

20 THE COURT: I understand Judge Dearie has
21 also approved that, correct?

22 MS. MACE: Yes. I can't say that he ruled
23 on it but we were told by his chambers that it was
24 appropriate for us to ask your Honor to enter that
25 order today.

1 THE COURT: Any objection?

2 MR. PAPPALARDO: Your Honor, as the Court
3 knows, this is a superseding indictment and it has been
4 designated as a complex case. However, the position
5 that I have is that I'd like to review in some detail,
6 now that -- if the Court orders this bond to be
7 acceptable, I'd like to spend some time with my client
8 and make some decisions over the next couple of weeks
9 as to what the position may very well be.

10 March 16th is a long way away. I informed
11 the government that I don't know what position we would
12 have on a motion for speedy trial and that it may very
13 well be that even if we filed the motion for a speedy
14 trial, given the complex case designation, that it
15 wouldn't make much difference. Having said that, I
16 certainly don't want Mr. Napout's rights to be
17 penalized because he quickly and expeditiously waived
18 his right to an extradition hearing and came to the
19 United States.

20 What I indicated to the government was, I
21 would be willing to certainly waive for a period of
22 time until we could make an informed decision, and the
23 decision at that time may very well be that we will go
24 along with that. But I would like some grace period
25 and that grace period we would deem excludable under

1 the Speedy Trial Act. So my suggestion would be to
2 give us three weeks, a month, and then I will inform
3 the government. And if we make a decision sooner, I
4 will inform the government sooner, and we will take
5 whatever appropriate steps would be necessary and
6 inform the Court and things of that nature. But three
7 months away is tough given the situation we find
8 ourselves in now.

9 Mr. Napout has been incarcerated since
10 December 3rd. We have not had time to address the
11 niceties of the American justice system in any detail.
12 I think that to make informed judgments, we would need
13 an additional amount of time. I'm simply asking the
14 Court to give us say four weeks, let's say a month, to
15 make that decision, and we will inform the government.
16 And during that one-month period of time, we will agree
17 that that's excludable time under the Speedy Trial Act.

18 MS. MACE: I think where we disagree, your
19 Honor, is the amount of excludable time. I don't think
20 the Court needs to have consent of both parties to make
21 a ruling in this situation. The Court does have the
22 power to exclude time to March 16th. That's what we're
23 asking for in this instance.

24 I will note that the status conference has
25 been set for March 16th but nothing precludes Mr.

1 Pappalardo from asking the Court to advance that or
2 making any request to the judge that he may have. So
3 as we stand now, the next status conference is March
4 16th, and we ask that time be excluded until then on the
5 bases that I indicated earlier.

6 THE COURT: Hypothetically, if Mr. Napout
7 were to consent to exclude time only for thirty days
8 but then agreed that this was a complex case already
9 and that there was really no basis to disagree with a
10 further extension or exclusion, could that be done on
11 papers?

12 MS. MACE: I believe, your Honor, that he
13 could -- the parties could ask for time to be excluded
14 jointly in papers to Judge Dearie.

15 THE COURT: Is there any prejudice to the
16 government at this point if time were excluded only for
17 thirty days, with either an appearance if there's a
18 disagreement about further exclusion or simply a
19 stipulation that would go to Judge Dearie after the
20 thirty days?

21 MS. MACE: I don't think there is any
22 immediate prejudice during the time that is excluded,
23 but it may be -- the government may ask the Court and
24 may ask Judge Dearie to enter a longer period of
25 exclusion because I think the Court can do so, given

1 the status of all the other defendants in the case. To
2 answer your question, no, there's no immediate
3 prejudice, but the government may explore whether to
4 ask the Court for other remedies.

5 THE COURT: It seems to me just from the
6 argument that you've presented that you're correct on
7 the law and that there's more likely -- very likely not
8 a legal basis for the defendant to object to a further
9 exclusion. However, in an excess of caution, because
10 exclusion of time is an issue that the courts like to
11 look at carefully, I don't see that there would be any
12 prejudice to you by doing that. It's more like you're
13 going to win this anyway and I think what you're doing
14 is foreclosing any other avenues of objections in the
15 future if they were to arise.

16 MS. MACE: If the Court would prefer to
17 proceed in that way, then we'll fill out the form and
18 indicate that both parties have consented to thirty
19 days, and then the government may address it further
20 with Judge Dearie, if that's acceptable.

21 THE COURT: Right, after thirty days or
22 before. It's your choice.

23 MS. MACE: Thank you. We'll take a moment
24 just to fill this out.

25 THE COURT: Do you understand what it means

1 to exclude time?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you discussed it with your
4 attorney?

5 MR. PAPPALARDO: Very generally, your Honor,
6 but not specifically.

7 THE COURT: Do we need to go over it now?

8 MR. PAPPALARDO: I don't think so, your
9 Honor. I think we can deal with that at a later time.

10 THE COURT: But did you understand what your
11 speedy trial right is?

12 THE DEFENDANT: Yes, I understand.

13 THE COURT: And you understand that you're
14 excluding the thirty days from today, the 15th of
15 December to the 15th of January, from the speedy trial
16 obligations of the government.

17 THE DEFENDANT: Yes, your Honor, I do
18 understand.

19 THE COURT: At the end of that time, there
20 may or may not be a continuation of the speedy trial
21 exclusion. That's going to be up to the government and
22 you, although my legal opinion is it's pretty clear
23 that the speedy trial rights should be stayed at this
24 point because of all the reasons that the government
25 mentioned. But we're proceeding with the thirty days

1 at this point.

2 THE DEFENDANT: Thank you very much, your
3 Honor.

4 THE COURT: Are you making this decision
5 voluntarily?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Any questions?

8 THE DEFENDANT: No, sir.

9 THE COURT: Anything else?

10 MS. MACE: Your Honor, the government has
11 prepared a redacted version of one of the attachments.
12 Just for the record, the bond has two attachments,
13 attachment A and B. We've prepared a redacted version
14 of B that just takes out the street address of a
15 residence, and I'd like to submit that to the Court for
16 the public filing.

17 THE COURT: Has counsel seen that?

18 MS. MACE: Yes. It's the last page.

19 MR. PAPPALARDO: Yes, your Honor.

20 THE COURT: Anything else?

21 MS. MACE: Not for the government, thank
22 you.

23 THE COURT: Anything else?

24 MR. PAPPALARDO: We just need wiring
25 instructions, your Honor, which I hopefully can get

1 from the clerk.

2 THE CLERK: You have to call our financial
3 department tomorrow.

4 MR. PAPPALARDO: Okay. Tomorrow?

5 THE CLERK: Tomorrow morning because they're
6 closed now.

7 THE COURT: Thank you.

8 MS. MACE: Thank you, your Honor.

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I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



ELIZABETH BARRON

January 20, 2016